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09/145,167	09/01/1998	IRENE HU FERNANDEZ	FERN-P004	5652

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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT PAPER NUMBER

3639

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/145,167

Applicant(s)

FERNANDEZ ET AL.

Examiner

Akiba K Robinson-Boyce

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6,7,13 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 8-12 and 14-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6,7,13 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. Due to communications filed 3/16/05, the following is a non-final office action. Claims 1-5, 8-12 and 14-19 have been cancelled. Claims 6, 7, 13 and 20 have been amended. Claims 6, 7, 13 and 20 are pending in this application and have been examined on the merits. The previous rejection has been withdrawn and the following rejection reflects the claims as amended.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 7, 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samuel et al (US 6,023,729), and further in view of Howe et al (US 6,826,775).

As per claim 6, Samuel et al discloses:

a method for enhancing on-line commerce comprising the steps of, (Abstract, lines 1-3, method for grouping or matching network users and computers associated with multi-user applications):

determining by a server an attribute of a client, (Col. 2, lines 53-60, shows the matchmaker application which resides on a server, facilitates communications w/ col. 14, line 61-Col. 15, line 5, shows attributes are associated with clients and client applications include first cooperating client applications),

classifying the client in a set according to the attribute, (Col. 15, lines 6-11, a value of at least one attribute is associated with the first cooperating client application);

initiating before a request by any client in such set a message by the server, (Col. 15, lines 11-13, transmitting a message).

wherein the message is initiated adaptively or dynamically according to the attributes of a plurality of clients classified in the set, the classification being contextually mapped with the initiated message by comparing attributes to classify each client in the set the set classification being identified in group registry, (Col. 15, lines 11-13, where message includes at least one value, in this case the value is associated with at least one attribute that is associated with the first cooperating client application).

whereby a sale or transaction message may be provided to one or more clients classified in the set in response to the client request, (Col. 8, line 66-Col. 9, line 19, shows message associated with game offer and also shows a game offer representing a transaction is associated with specific client groups),

and one or more sensed client attributes, (Col. 9, lines 11-16, shows plural game attributes),

determining by the server a second attribute of the client; classifying the client in a second set according to the second attribute; and initiating before a request by any client in such second set a second message by the server to one or more clients classified in the second set, (Col. 2, lines 53-60, shows matchmaker application that resides on a server computer facilitates communication between the clients, w/ col. 18, lines 21-27, shows a second message that includes a second of a plurality of attributes associated with the second client application).

Samuel et al fails to disclose the client request comprising an online search query and auction bid ... in order to bill or charge the client appropriately for the search query or auction bid...wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability, but does disclose a system for controlling and monitoring access to network servers in the abstract, lines 1-2.

However, Howe et al discloses:

the client request comprising an online search query and auction bid, (Col. 2, lines 36-47, shows a subscriber may query a system and that on-line service are also available through these interactive communications, where an auction bid is commonly

represented by an interactive service), in order to bill or charge the client appropriately for the search query and auction bid, (Col. 26, lines 26-29, shows interactive services include pay-per-view) wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability, (Abstract, lines 1-2, interactive television services, w/ col. 17, line 59-col. 18, line 8, where the interactive callback address (ICA) associated with the interactive application or program is available to call and establish with an interactive server an interactive session associated with the program, where the ICA is used to access a button for indicating the availability of an interactive application during the interactive session is made available, in this case, the ICA serves as the attribute since it is a unique element also used to determine availability). Howe et al discloses these limitations in an analogous art for the purpose of showing that the availability of an interaction application or program is made available to users of the interactive system.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate queries and auction bids, billing the customer for the query and auction bid, and for at least one of the classified clients comprises an appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget

allowance, and a schedule availability with the motivation of showing how attributes can effect the digital image display.

As per claim 7, Samuel et al discloses:

a method for enhancing on-line commerce comprising the steps of, (Abstract, lines 1-3, method for grouping or matching network users and computers associated with multi-user applications):

determining by a server an attribute of a client, (Col. 2, lines 53-60, shows the matchmaker application which resides on a server, facilitates communications w/ col. 14, line 61-Col. 15, line 5, shows attributes are associated with clients and client applications include first cooperating client applications),

classifying the client in a set according to the attribute, (Col. 15, lines 6-11, a value of at least one attribute is associated with the first cooperating client application);

initiating before a request by any client in such set a message by the server, (Col. 15, lines 11-13, transmitting a message).

wherein the message is initiated adaptively or dynamically according to the attributes of a plurality of clients classified in the set, the classification being contextually mapped with the initiated message by comparing attributes to classify each client in the set the set classification being identified in group registry, (Col. 15, lines 11-13, where message includes at least one value, in this case the value is associated with at least one attribute that is associated with the first cooperating client application).

whereby a sale or transaction message may be provided to one or more clients classified in the set in response to the client request, (Col. 8, line 66-Col. 9, line 19,

shows message associated with game offer and also shows a game offer representing a transaction is associated with specific client groups),

and one or more sensed client attributes, (Col. 9, lines 11-16, shows plural game attributes),

determining by the server a second attribute of a second client; classifying the second client in a second set according to the second attribute; and initiating before a request by any client in such second set a second message by the server to the clients classified in the second set, (Col. 17, lines 10-17, shows formation of a second group dataset representing a second client group, w/ Col. 18, lines 21-27, shows a second message).

Samuel et al fails to disclose the client request comprising an online search query and auction bid ... in order to bill or charge the client appropriately for the search query or auction bid...wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability, but does disclose a system for controlling and monitoring access to network servers in the abstract, lines 1-2.

However, Howe et al discloses:

the client request comprising an online search query and auction bid, (Col. 2, lines 36-47, shows a subscriber may query a system and that on-line service are also



available though these interactive communications, where an auction bid is commonly represented by an interactive service), in order to bill or charge the client appropriately for the search query and auction bid, (Col. 26, lines 26-29, shows interactive services include pay-per-view) wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability, (Abstract, lines 1-2, interactive television services, w/ col. 17, line 59-col. 18, line 8, where the interactive callback address (ICA) associated with the interactive application or program is available to call and establish with an interactive server an interactive session associated with the program, where the ICA is used to access a button for indicating the availability of an interactive application during the interactive session is made available, in this case, the ICA serves as the attribute since it is a unique element also used to determine availability). Howe et al discloses these limitations in an analogous art for the purpose of showing that the availability of an interaction application or program is made available to users of the interactive system.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate queries and auction bids, billing the customer for the query and auction bid, and for at least one of the classified clients comprises an appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the

group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability with the motivation of showing how attributes can effect the digital image display.

As per claim 13, Samuel et al. discloses:

an interface, (Col. 8, lines 27-28, graphical user interface),

a processor, (Col.18,lines 5-7, processing application);

wherein the interface is accessible by a server coupled to a network, (Col. 2, lines 53-60, matchmaker application residing on server facilitates network communications),

whereby the processor may provide the network access to a signal generated by the sensor; the interface being classifiable in a set according to the signal, the interface receiving a network signal according to the classified set, the network signal being initiated before a client message request adaptively or dynamically...the classification being contextually mapped with the network signals and identified in a group registry, (Col. 15, lines 6-11, a value of at least one attribute is associated with the first cooperating client application, w/Col. 15, lines 11-13, transmitting a message, where message includes at least one value, in this case the value is associated with at least one attribute that is associated with the first cooperating client application), whereby a sale or transaction message may be provided to one or more clients classified in the set in response to the client message request, (Col. 8, line 66-Col. 9, line 19, shows message associated with game offer and also shows a game offer representing a transaction is associated with specific client groups),

and one or more sensed client attributes, (Col. 9, lines 11-16, shows plural game attributes),

Samuel fails to disclose the following, but does disclose matching network users and computers associated with multi-user applications in the abstract, lines 1-3.

However Howe et al discloses:

a sensor, (col. 30, lines 35, processor programmed to detect);

the client request comprising an online search query and auction bid, (Col. 2, lines 36-47, shows a subscriber may query a system and that on-line service are also available through these interactive communications, where an auction bid is commonly represented by an interactive service), in order to bill or charge the client appropriately for the search query and auction bid, (Col. 26, lines 26-29, shows interactive services include pay-per-view), ...according to a plurality of generated sensor signals associated with the classified set, (Col. 4, lines 21-28, shows an interactive system capable of receiving broadband signals and programmed to detect the presence and content of an identifying code or callback address, w/ col. 3, lines 5-10, shows that the interactive system can be located geographically close to a corresponding set of subscribers). Howe et al discloses this limitation in an analogous art for the purpose of showing that a specific set of subscribers located in a particular geographic area are able to receive broadband signals associated with these subscribers).

It would have been obvious to one of ordinary skill in the art to incorporate limitations of Howe et al into Samuel et al, including a sensor and the idea of charging for the user query and associating the classified set into adaptively or dynamically

directing the network signal according to the generated sensor signals because in order to direct these type of signals to the appropriate subscribers for the appropriate fee, they need to be classified or grouped in a specific order.

Samuel et al fails to disclose wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability, but does disclose a system for controlling and monitoring access to network servers in the abstract, lines 1-2.

However, Howe et al discloses:

wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability, (Abstract, lines 1-2, interactive television services, w/ col. 17, line 59-col. 18, line 8, where the interactive callback address associated with the interactive application or program is available to call and establish with an interactive server an interactive session associated with the program, where the a button for indicating the availability of an interactive application during the interactive session is made available). Howe et al discloses this limitation in

an analogous art for the purpose of showing that the availability of an interaction application or program is made available to users of the interactive system.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for at least one of the classified clients comprises an appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability with the motivation of showing how attributes can effect the digital image display.

As per claim 20, Samuel et al. discloses:

receiving an attribute signal from a first node, (Col. 2, lines 53-60, shows the matchmaker application which resides on a server, facilitates communications w/ col. 14, line 61-Col. 15, line 5, shows attributes are associated with clients and client applications include first cooperating client applications, in this case, signals are inherent with Samuel since messages are sent throughout the network, and signals are necessary for this type of transmission;

transmitting the attribute signal to a second node for classifying the first node in a set according to the attribute signal; (Col. 15, lines 6-11, a value of at least one attribute is associated with the first cooperating client application);

receiving a message signal from the second node /transmitting the message signal to one or more nodes classified in the set, the message signal being initiated before a message request from the first node adaptively or dynamically according to a

plurality of attribute signals and identified in a group registry, (Col. 15, lines 11-13, transmitting a message, where message includes at least one value, in this case the value is associated with at least one attribute that is associated with the first cooperating client application),

whereby a sale or transaction message may be provided to one or more nodes classified in the set in response to the message request, (Col. 8, line 66-Col. 9, line 19, shows message associated with game offer and also shows a game offer representing a transaction is associated with specific client groups),

and one or more sensed node attributes, (Col. 9, lines 11-16, shows plural game attributes),

receiving a second attribute signal from a third node; transmitting the second attribute signal to the second node for classifying the third node in the set according to the second attribute signal; receiving a second message signal from the second node; and transmitting the second message signal to one or more nodes classified in the set, Col. 17, lines 10-17, shows formation of a second group dataset representing a second client group, w/ Col. 18, lines 21-27, shows a second message).

Samuel et al fails to disclose the client request comprising an online search query and auction bid ... in order to bill or charge the client appropriately for the search query or auction bid...wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an

entertainment preference, a budget allowance, and a schedule availability, but does disclose a system for controlling and monitoring access to network servers in the abstract, lines 1-2.

However, Howe et al discloses:

the client request comprising an online search query and auction bid, (Col. 2, lines 36-47, shows a subscriber may query a system and that on-line service are also available through these interactive communications, where an auction bid is commonly represented by an interactive service), in order to bill or charge the client appropriately for the search query and auction bid, (Col. 26, lines 26-29, shows interactive services include pay-per-view) wherein at least one of the classified clients comprises an interactive digital television appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability, (Abstract, lines 1-2, interactive television services, w/ col. 17, line 59-col. 18, line 8, where the interactive callback address (ICA) associated with the interactive application or program is available to call and establish with an interactive server an interactive session associated with the program, where the ICA is used to access a button for indicating the availability of an interactive application during the interactive session is made available, in this case, the ICA serves as the attribute since it is a unique element also used to determine availability). Howe et al discloses these limitations in an analogous art for the

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purpose of showing that the availability of an interaction application or program is made available to users of the interactive system.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate queries and auction bids, billing the customer for the query and auction bid, and for at least one of the classified clients comprises an appliance for enabling digital media play-back interactively between the appliance and the server, whereby the server may sense one or more appliance attribute from the group consisting of an appliance model number, an entertainment preference, a budget allowance, and a schedule availability with the motivation of showing how attributes can effect the digital image display.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 6, 7, 13 and 20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*ARB*

A. R. B.  
March 31, 2005

*Thomas A. Dixon*  
THOMAS A. DIXON  
PRIMARY EXAMINER